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February 12, 2025

**VIA ECF ONLY**

Hon. Katherine Polk Failla, U.S.D.J.  
United States District Court  
Southern District of New York  
40 Foley Square, Room 2103  
New York, New York 10007

**MEMO ENDORSED**

**Re: *Flycatcher Corp. Ltd. v. Affable Avenue LLC et al.***  
**Case No. 24-cv-09429 (KPF)**

Dear Judge Polk Failla:

This office represents defendant Top Experience Company LLC d/b/a We Pay Cost LLC (“TEC”) in the above-captioned matter. We write to the Court now to request 30 days from February 18, 2025 to respond to the Complaint. Counsel for Flycatcher consents to the foregoing request.

Pursuant to Fed. R. Civ. P. (“Rule”) 6(b)(1)(B), TEC respectfully submits that “excusable neglect” exists to warrant the brief extension of time sought here — 30 days — to respond to the complaint. TEC was purportedly served with the Summons and Complaint on January 17, 2025 pursuant to Rule 4(h)(1)(B), i.e., by delivering the Summons and Complaint to an official of the state authorized to receive service on TEC’s behalf. (ECF 58.) Thereafter, pursuant to Rule 12(a)(1)(A)(i), TEC had until February 7, 2025 to respond to the Complaint. However, TEC has never to its knowledge ever received a copy of the Summons and Complaint from the California Secretary of State.<sup>1</sup>

Moreover, the undersigned was just retained by TEC yesterday afternoon and is in the process of investigating the Complaint’s allegations, including, but not limited to, the basis for

<sup>1</sup> TEC has kept abreast of the litigation via PACER.

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plaintiff's claim that this Court has personal jurisdiction over TEC which is a California-based company. (ECF 1, ¶ 11.) The need for an investigation into the facts underlying the Complaint, coupled with the press of other matters before this and other courts, necessitates the brief extension requested here.

Pursuant to § 2(C)(i) of Your Honor's Individual Rules of Practice, TEC further responds as follows:

- i. TEC has not made a prior request to extend its time to respond to the Complaint; and
- ii. TEC's request does not affect any other presently scheduled dates.

The Court's continued attention to this matter is appreciated.

Respectfully submitted,



Joel G. MacMull

cc: All Counsel of Record (*via ECF*)

Application GRANTED. Defendant Top Experience Company LLC shall answer or otherwise respond to the complaint on or before **March 20, 2025**.

The Clerk of Court is directed to terminate the pending motion at docket entry 62.

Dated: February 13, 2025 SO ORDERED.  
New York, New York



HON. KATHERINE POLK FAILLA  
UNITED STATES DISTRICT JUDGE